

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

David Oppenheimer,

Plaintiff,

vs.

**Daniel M. Sikorra, Linda C. Sikorra, Burt
Waters, Fontana Realty, LLC, Rockledge
Partners, LLC, Marian E. Schaffer, dba
Southeast Discovery, The Schaffer Realty
Group, Ltd., Private Communities Registry
Inc.,**

Defendants.

CASE NO.: 1:18-cv-118

**ANSWER OF DEFENDANT
FONTANA REALTY, LLC
(Jury Trial Demanded)**

Defendant Fontana Realty, LLC, (“this Defendant” or “the Answering Defendant”), through undersigned counsel, responds to the Plaintiff’s Complaint as follows:

1. It is admitted that the Plaintiff has alleged causes of action based upon the cited Chapters. Except as admitted, the allegations are denied.
2. Admitted.
3. This Defendant lacks sufficient information to admit or deny. Therefore, the allegations are denied.
4. It is admitted that Daniel Sikorra and Linda Sikorra are citizens and residents of North Carolina and that they have waived personal service. Except as admitted, the allegations are denied.
5. It is denied that Burt Waters is a citizen and resident of North Carolina. It is admitted that he has waived personal service. Except as admitted, the allegations are denied.

6. It is admitted that Defendant Fontana is a North Carolina corporation and that it has waived personal service. Except as admitted, the allegations are denied.

7. It is admitted that Defendant Rockledge Partners, LLC is a North Carolina entity with a principal place of business in Bryson City, North Carolina. It is further admitted that Defendant Rockledge Partners, LLC has waived personal service. Except as admitted, the allegations are denied.

8. This Defendant lacks sufficient information to admit or deny the allegations. Therefore, the allegations are denied.

9. This Defendant lacks sufficient information to admit or deny the allegations. Therefore, the allegations are denied.

10. This Defendant lacks sufficient information to admit or deny the allegations. Therefore, the allegations are denied.

11. This Defendant lacks sufficient information to admit or deny the allegations. Therefore, the allegations are denied.

12. This Defendant lacks sufficient information to admit or deny the allegations. Therefore, the allegations are denied.

13. This Defendant lacks sufficient information to admit or deny the allegations. Therefore, the allegations are denied.

14. This Defendant lacks sufficient information to admit or deny the allegations. Therefore, the allegations are denied.

15. This Defendant lacks sufficient information to admit or deny the allegations. Therefore, the allegations are denied.

16. This Defendant lacks sufficient information to admit or deny the allegations. Therefore, the allegations are denied.

17. Denied.

18. This Defendant lacks sufficient information to admit or deny the allegations. Therefore, the allegations are denied.

19. It is admitted that Plaintiff's counsel communicated with this Defendant. Except as admitted, the allegations are denied.

20. Denied.

FIRST CAUSE OF ACTION – COPYRIGHT INFRINGEMENT

21. This Defendant hereby realleges and incorporates by reference its responses to Paragraphs 1 through 20 as if fully restated herein.

22. Denied.

23. Denied.

SECOND CAUSE OF ACTION – CONTRIBUTORY COPYRIGHT INFRINGEMENT

24. This Defendant hereby realleges and incorporates by reference its responses to Paragraphs 1 through 23 as if fully restated herein.

25. Denied.

THIRD CAUSE OF ACTION – VICARIOUS COPYRIGHT INFRINGEMENT

26. This Defendant hereby realleges and incorporates by reference its responses to Paragraphs 1 through 25 as if fully restated herein.

27. It is denied that this Defendant performed any infringing acts. It is admitted that Defendants Daniel Sikorra and Linda Sikorra owned Defendant Fontana Realty, LLC. It is further

admitted that Defendants Daniel Sikorra and Burt Waters owned Defendant Rockledge Partners, LLC. Except as admitted, the allegations are denied.

28. It is denied that this Defendant performed any infringing acts. It is admitted that Defendants Daniel Sikorra and Linda Sikorra owned Defendant Fontana Realty, LLC. It is further admitted that Defendants Daniel Sikorra and Burt Waters owned Defendant Rockledge Partners, LLC. Except as admitted, the allegations are denied.

29. Denied.

FOURTH CAUSE OF ACTION – VIOLATIONS OF THE DMCA

30. This Defendant hereby realleges and incorporates by reference their responses to Paragraphs 1 through 29 as if fully restated herein.

31. Denied.

32. Denied.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

DAMAGES

37. Denied.

38. Denied.

RELIEF REQUESTED

39. Denied.

40. Denied.

41. Denied.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

46. Denied.

47. Denied.

48. Denied.

49. Denied.

50. Denied.

FIRST AFFIRMATIVE DEFENSE

This Defendant hereby asserts that if it is found to have infringed upon the Plaintiff's copyrighted image, which is denied, then such actions would constitute an innocent infringement. The alleged image used by one or more of the Defendants did not contain any information on its face that it was a copyrighted work, and the Defendants were unaware and had no reason to believe that their acts constituted an infringement of the Plaintiff's copyright.

WHEREFORE, having fully answered the Plaintiff's Complaint, this Defendant respectfully prays this Court for the following relief:

1. That the Plaintiff's Complaint be dismissed with prejudice;
2. That the Plaintiff have and recover nothing of this Defendant;
3. That the costs of this action be taxed to the Plaintiff;
4. That all issues of fact be tried by jury; and
5. For such other and further relief as the Court deems just and proper.

This the 29th day of June, 2018.

/s/ Harold C. Spears
Harold C. Spears,
Attorney for FONTANA REALTY, LLC
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/s/ B. Alexander Correll, Jr.
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**CERTIFICATE OF SERVICE FOR
ANSWER OF DEFENDANT
FONTANA REALTY, LLC**

CERTIFICATE OF SERVICE

I hereby certify that on June 29, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Dana LeJune: dlejune@triallawyers.net

Jeremy S. Foster: jfoster@clawsonandstaubes.com

James M. Dedman, IV: jdedman@gwblawfirm.com

And I certify that I mailed the document to the following non-CM/ECF participants:

N/A

/s/ B. Alexander Correll, Jr.
B. Alexander Correll, Jr.